UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1993/NGO/50
29 March 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by International Education Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 March 1993]

1. International Educational Development has as a fundamental part of its mandate promotion of humanitarian law. This mandate includes, inter alia, (1) analysis of armed conflicts in the world from the point of view of humanitarian law; (2) efforts, including direct negotiations, to ensure compliance with humanitarian law in countries at war; (3) dissemination of information through studies on country situations, briefing papers on important issues, participation in the United Nations human rights forums, and numerous public events; and, (4) campaigns to encourage ratifications of the Protocols Additional to the Geneva Conventions of 1949.

2. Our work with humanitarian law has led us to a number of concerns of interest to the United Nations Commission on Human Rights. The most important concern is that very few other organizations and hardly any lawyers in the field of human rights are trained in or concerned with humanitarian law. At the same time, United Nations Special Rapporteurs, even those whose mandates concern countries obviously at war, pay little useful attention to humanitarian law norms. On occasion, rapporteurs even incorrectly cite rules and principles of humanitarian law. (There have been a few notable exceptions to this situation, such as the work of the Special Rapporteur on the situation of human rights in Afghanistan, Mr. F. Ermacora, over the years in his reports on Afghanistan.

3. IED is convinced that for countries at war, the most compelling issue of human rights is the war itself and the violations of humanitarian law that arise in the course of any war. Failure to adequately address the armed conflict substantially reduces the relevance of any analysis of a country at war.

4. The situation of Sri Lanka, addressed by the Commission in its statement of 27 February 1992 see (E/CN.4/1992/84, p. 275), is a prime example. A war in Sri Lanka has been raging for nearly ten years between Tamil armed groups and the Government forces. While at times there were several armed Tamil groups, since around 1986 the Liberation Tigers of Tamil Eelam (LTTE) has been the only one at war. Needless to say, armed conflict does not arise in a vacuum - it is caused by something. In Sri Lanka, as on a number of countries, the root causes of the war are clearly human rights violations. None the less, when the war breaks out, the war itself can produce far more serious violations - those that constitute war crimes - and at the same time, provide a pretext for continued or even escalated patterns of human rights violations on the part of the Government as it defends itself, also clearly the case in Sri Lanka.

5. Wars create overwhelming barriers to resolving human rights violations: before any effective regime of human rights compliance can be achieved, the war and its animosities, hurts, crimes, refugees, destructions and divisions must be resolved. Sri Lanka again is a prime example. To solve the human rights problem, first there must be peace. This step is very difficult to achieve if attention is elsewhere, such as on disappearances, illegal detention, summary executions and the like. To ignore or discount the war, either because of dislike for any or all of the parties, because lack of preparation in or focus on humanitarian law, for political reasons or for any other reason, will not stop the war. As long as the war continues, human rights compliance is a phantom at best.

6. The Commission on Human Rights has a number of useful options to address more effectively country situations in which there are wars. We would like to present two of many we could make. First of all, more attention can be placed on the Geneva Conventions and customary humanitarian law on all activities and procedures of the Commission. In this light, more reference should be made to the General Assembly resolutions relating to human rights in armed conflict, such as resolutions 2625, 2675 and 2677 (XXV GAOR), resolution 40/139 and resolution 41/35.

7. The Commission could also appoint a special rapporteur for armed conflicts. This rapporteur could (a) alert the Commission when situations of civil unrest appear to be escalating into internal armed conflicts; (b) address ongoing armed conflicts by analysing the legal aspects, acting as a mediator, addressing violations of humanitarian law as presented to the rapporteur, and proposing further action for the Commission to consider; (c) work with special rapporteurs on country situations in which armed conflict is a component. Such a mandate would complement the work done by the ICRC, IED and other non-governmental organizations dealing with humanitarian law compliance.